

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DARRELL D. SMITH,

Case No. 24-CV-1551 (PJS/TNL)

Petitioner,

v.

ORDER

B. EISCHEN,

Respondent.

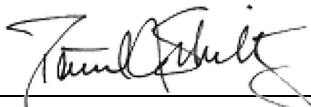
This matter is before the Court on petitioner Darrell Smith's motion to file an appeal. So far as the Court can tell, it appears that Smith is asking the Court to extend the time to file a notice of appeal. *See* Fed. R. App. P. (a)(5). Smith filed a notice of appeal on December 16, 2024, however, *see* ECF No. 20, and his appeal has been docketed by the United States Court of Appeals for the Eighth Circuit as Case No. 24-3575, *see* ECF No. 27. Moreover, because this is an action against "a United States officer or employee sued in an official capacity," Smith had 60 days after entry of judgment within which to file a notice of appeal. *See* Fed. R. App. P. 4(a)(1)(B)(iii); *Herrera v. INS*, 2 F. App'x 603, 604 (8th Cir. 2001) (per curiam) (noting that the § 2241 petitioner had 60 days from the entry of judgment in which to file his notice of appeal). As the Court entered judgment in this case on November 14, 2024, ECF No. 19, that 60-day period has

not yet expired. Given that Smith has already filed a notice of appeal, therefore, his motion to file an appeal is denied as moot.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that petitioner's motion to file an appeal [ECF No. 28] is DENIED AS MOOT.

Dated: December 26, 2024



Patrick J. Schiltz, Chief Judge
United States District Court